

Rezoning of 18 James St, South Windsor from SP2 to R3

Proposal Title : Rezoning of 18 James St, South Windsor from SP2 to R3

Proposal Summary : The proposal seeks to rezone 18 James St, South Windsor from SP2 Infrastructure to R3 Medium Density Residential. An amendment to the applicable Lot Size Map to specify 450sqm minimum lot size map and an amendment to the applicable Height of Buildings map to specify 10m maximum height of buildings are also proposed. The intent is to enable residential development on the site with a maximum of two dwellings under dual occupancy.

PP Number : PP_2016_HAWKE_002_00 **Dop File No :** 16/01412

Proposal Details

Date Planning Proposal Received : 07-Jan-2016 **LGA covered :** Hawkesbury

Region : Metro(Parra) **RPA :** Hawkesbury City Council

State Electorate : HAWKESBURY **Section of the Act :** 55 - Planning Proposal

LEP Type : Spot Rezoning

Location Details

Street : 18 James St

Suburb : South Windsor **City :** NSW **Postcode :** 2756

Land Parcel : Lot 4 DP 503048

DoP Planning Officer Contact Details

Contact Name : Georgina Ballantine

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : Derryn John

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Land Release Data

Growth Centre : N/A **Release Area Name :** N/A

Regional / Sub Regional Strategy : Metro North West subregion **Consistent with Strategy :** No

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MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	2
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting Notes :

Additional Information relating to dwellings yield was requested by Sydney Region West Council provided the information on 7 January 2016. The proposal was referred to Infrastructure NSW for comment from the Hawkesbury-Nepean Valley Flood Risk Management Taskforce. Infrastructure NSW consulted with the NSW State Emergency Services, the NSW Office of Environment and Heritage, and Roads and Maritime Services. Infrastructure NSW incorporated advice from the agencies into a letter (Tab C), received on 24 May 2016, which recommended refusal of the planning proposal.

External Supporting Notes :

Adequacy Assessment**Statement of the objectives - s55(2)(a)**

Is a statement of the objectives provided? Yes

Comment :

The proposal seeks to rezone 18 James St, South Windsor from SP2 Infrastructure to R3 Medium Density Residential to facilitate residential development. Council is proposing a minimum lot size of 450sqm and a maximum height of buildings of 10m to be consistent with the surrounding residential area.

The site contains a disused scout hall and has street frontage on three sides. The land is surrounded by a block of R1 General Residential to the north and blocks of R3 to the east, south and west. Larger areas of R2 are situated in blocks further to the south and west.

As the site covers an area of 670sqm, the intent is not to enable subdivision. Council has confirmed that there will be potential for two dwellings under dual occupancy provisions.

Due to flood evacuation risks, it is recommended that the planning proposal proceed with a proposed rezoning from SP2 Infrastructure to R2 Low Density Residential. An R2 zone will prohibit the majority of residential uses that would be permitted under an R3 zone, such as multi dwelling housing, residential flat buildings, semi-detached dwellings and dual occupancies.

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Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : Council proposes to achieve the rezoning through the following amendments to Hawkesbury Local Environmental Plan 2012.

1. Amend the Land Zoning Map to change the current zoning of the site from SP2 Infrastructure to R3 Medium Density Residential.

2. Amend the Lot Size Map to specify 450sqm minimum lot size.

3. Amend the Height of Buildings Map to specify 10m maximum height of buildings.

Should the proposal proceed with a proposed rezoning to R2 Low Density Residential, the amendments will appear as below.

1. Amend the Land Zoning Map to change the current zoning of the site from SP2 Infrastructure to R2 Low Density Residential.

The Lot Size Map and Height of Building maps can remain as stated in the planning proposal, as all surrounding R3 and R2 land is designated for 450sqm minimum lot size and 10m height of buildings.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

1.3 Mining, Petroleum Production and Extractive Industries

3.1 Residential Zones

* May need the Director General's agreement

3.4 Integrating Land Use and Transport

3.5 Development Near Licensed Aerodromes

4.1 Acid Sulfate Soils

5.1 Implementation of Regional Strategies

7.1 Implementation of A Plan for Growing Sydney

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SREP No 9—Extractive Industry (No 2—1995)

SREP No. 20 - Hawkesbury-Nepean River (No. 2 - 1997)

e) List any other matters that need to be considered :

The site is located within an area under review by the Hawkesbury-Nepean Valley Flood Management Review Taskforce in relation to flood evacuation and risk to life. The Department's Sydney Region West team consulted with the Taskforce (through Infrastructure NSW) and received comments on 24 May. A copy of the letter from Infrastructure NSW is attached, incorporating advice from the Office of Environment and Heritage, Roads and Maritime Services and State Emergency Services. The key points of the letter are discussed in the Environmental, Social and Economic - Flooding section of this report.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

SECTION 117 DIRECTIONS

DIRECTION 1.3 – Mining, petroleum production and extractive industries

Consistency with this Direction must be established via consultation with the NSW Department of Industry - Resources and Energy. The determination will dictate the terms of this consultation.

DIRECTION 3.4 – Integrating land use and transport

Direction 3.4 does not strictly apply, as the proposal relates only to rural land. However,

as the intent of the proposal is to facilitate residential development, the objectives of the Direction have been addressed.

The proposal is considered to be consistent with this direction as it seeks to provide a small quantity of rural residential housing within 200m of the centre of South Windsor, with associated infrastructure and services.

DIRECTION 4.1 – Acid sulfate soils

This Direction does apply to the planning proposal as it will affect land having a probability of containing acid sulfate soils, as shown on the Acid Sulfate Soils Planning Maps held by the Department of Planning. The land is identified as Class 5 on Council's Acid Sulfate Soils map, being the least constrained class of acid sulfate soils.

The proposal is considered to be consistent with this direction as the intensification of residential land use is minor. The existing cl. 6.1 'Acid sulphate soils' in Hawkesbury LEP 2012 also provides adequate controls to address this matter.

DIRECTION 4.3 - Flood Prone Land

Part (6) of the planning proposal report (Urbls) notes that Section 117 Direction 4.3 Flood Prone Land does not apply as the land is above the 1%AEP flood level. However, the consultation letter of 23 May 2016 received from Infrastructure NSW states that the NSW Office of Environment and Heritage advises that consistency with Direction 4.3 is required for this proposal as it relates to 'flood prone land', being land located below the Probable Maximum Flood (as defined by the Direction in the NSW Floodplain Development Manual 2005). Consistency with the Direction requires the proposal to consider flood risk, both to property and risk to life. The Hawkesbury-Nepean Valley Flood Risk Management Taskforce has identified South Windsor as a problematic hotspot area with inadequate evacuation capacity for regional evacuation from floods.

Dual occupancy, multi dwelling housing and residential flat buildings are permitted uses in the R3 Medium Density Residential zone. The proposal's inconsistency with Direction 4.3 is considered to be of minor significance, subject to the proposal proceeding with a proposed rezoning to R2 Low Density Residential (as opposed to Council's proposed R3 Medium Density Residential).

DIRECTION 4.4 – Planning for bushfire protection

This Direction does apply to the planning proposal as it will affect land identified as Category 1 vegetation on the Hawkesbury Bushfire Prone Land Map. A preliminary bushfire investigation has been carried out and concluded that the majority of the site would be more accurately classified as Category 2, being cleared grassland.

RECOMMENDATION: The Secretary can be satisfied that the requirements of the Direction will be met. Should the proposal be approved a condition will be included in the Gateway determination that consultation should be undertaken with the Rural Fire Service prior to exhibition, in accordance with the Direction.

DIRECTION 7.1 - A Plan for Growing Sydney

It is considered that the proposal is inconsistent with Action 4.2.2 of A Plan for Growing Sydney in relation to flood constraints. Further details are provided under the Strategic Planning Framework section of this report.

SEPP No. 55 – Remediation of Land

The land has been used for limited grazing in the past and therefore carries a low risk of soil and groundwater contamination. The applicant has said that there is no evidence that any activities have occurred on the land which would give rise to contamination. Clause 6 of SEPP 55 requires that Council carry out an Investigative study if contamination is suspected. Council has stated that any investigation could be carried out following the issue of the Gateway determination. Should the proposal be approved it is considered that, due to the minor risk of contamination, an investigative study is not required and there are adequate protections at the development application stage.

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SREP No 9 – Extractive Industry (No 2 – 1995)

The subject land is not in the vicinity of land described in Schedules 1, 2 or 5 of SREP 9, so it is unlikely that it contains extractive material of regional significance.

Should a Gateway determination be issued, it is likely that it will require consultation with the NSW Department of Industry - Energy & Resources in order to establish that no extractive materials will be sterilised by the proposal's progression.

SREP No. 20 – Hawkesbury-Nepean River (No 2 – 1997)

The aim of SREP No. 20 is to protect the environment of the Hawkesbury – Nepean River system by ensuring that the impacts of future land uses are considered in a regional context. Part 2 of SREP 20 provides general planning considerations, specific planning policies and recommended strategies.

It is considered that the proposal, given its small scale, can be achieved without any significant adverse impact on the Hawkesbury River Catchment.

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment : Council has provided current and proposed Land Zoning Maps, Lot Size Maps and Height of Building Maps (p. 30 of the planning proposal). Aerial photographs are provided with local features marked (p. 76 of the Ordinary Meeting notes). New maps will need to be provided if the proposal proceeds with a proposed rezoning to R2 Low Density Residential.

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment : Community consultation will be carried out in line with the conditions of the Gateway determination.

Additional Director General's requirements

Are there any additional Director General's requirements? No

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : September 2012

Comments in relation to Principal LEP : Hawkesbury Local Environmental Plan 2012 commenced on 21 September 2012.

Assessment Criteria

Need for planning proposal : The proposal is not as a result of any strategic study or report. Council's justification of the proposal is that the scout hall has not been in use in recent years. The site therefore requires the removal of the SP2 Infrastructure zone to support development potential, with a view to providing up to 2 residential dwellings.

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Consistency with strategic planning framework :

A PLAN FOR GROWING SYDNEY

The proposal is generally consistent with the residential objectives of A Plan for Growing Sydney 2015, which applies in a broader, regional context. The proposal would serve as a minor expansion of an existing rural neighbourhood centre, and would provide land for residential development.

The proposal is inconsistent with Action 4.2.2 - Complete and Implement the Hawkesbury-Nepean Valley Floodplain Management Review. Action 4.2.2 states that 'evacuation and emergency management issues need to be addressed upfront in the planning process' and 'the Government will develop a single flood model for the entire Hawkesbury-Nepean floodplain to support land use planning, flood mitigation, emergency response, evacuation and recovery in the Hawkesbury-Nepean Valley'. The Hawkesbury-Nepean Valley Floodplain Management Review Taskforce is developing a Flood Risk Management Strategy based on the recommendations of the Hawkesbury-Nepean Valley Flood Management Review in 2013. Until the Strategy is released, the Taskforce recommends that any increase in residential density on flood-prone land in the Hawkesbury-Nepean Valley should not be permitted, due to the potential for increased risk to life and property. Further discussion of flooding issues can be found in the 'Flooding' section of this report below.

DRAFT NORTH WEST SUBREGIONAL STRATEGY

The proposal is broadly consistent with the residential objectives of the draft North West Subregional Strategy. It will provide housing growth in an existing centre, and will assist Hawkesbury City Council in meeting its housing growth target under the Strategy.

The proposal is inconsistent with the Flood Constraints section of the Strategy (pgs 81-82). The Strategy states that 'for most parts of the Hawkesbury...to the south of the Hawkesbury River there is no capacity for additional growth outside that already planned under Hawkesbury Council's Local Environmental Plan, without substantial further upgrades to the flood evacuation network.' The required upgrades will be identified as a result of the findings of the Taskforce. As the site has not been identified as having capacity for additional growth in Hawkesbury LEP 2012, it is considered that the proposal is inconsistent, but that the inconsistency is of minor significance if the proposal is updated, using a proposed zoning of R2 Low Density Residential.

Environmental social economic impacts :

FLOODING

The Department's Sydney Region West team consulted with the Hawkesbury-Nepean Valley Flood Management Review Taskforce (through Infrastructure NSW) with respect to flood risk and evacuation for the site. The consultation letter of 23 May 2016, received from Infrastructure NSW, is attached. The key points of the letter are as follows.

1. South Windsor is a 'flood island', an area above the possible flood extent that is cut off by flood waters and must therefore be evacuated.
2. The Hawkesbury-Nepean Valley Flood Risk Management Taskforce identified South Windsor as a problematic hotspot area with inadequate evacuation capacity for regional evacuation from floods.
3. Given the evacuation capacity constraints, the NSW State Emergency Service strongly recommends that any densification of development in South Windsor should not be permitted.
4. Part (6) of the planning proposal report notes that Section 117 Direction 4.3 Flood Prone Land does not apply as the land is above the 1%AEP flood level. However, the NSW Office of Environment and Heritage advises that consistency with the Direction is required for this proposal as it relates to 'flood prone land', being land located below the Probable Maximum Flood (as defined by the Direction in the NSW Floodplain Development Manual 20015). Consistency with the Direction requires the proposal to consider flood risk, both to property and risk to life.

Despite the recommendations for refusal arising from consultation with the Hawkesbury-Nepean Valley Floodplain Risk Management Taskforce (Tab C) it is recommended that the proposal is supported due to the minimal residential increase on the site, but the proposed rezoning is changed to R2 Low Density Residential to remove

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the majority of residential uses such as multi dwelling housing, dual occupancy, residential flat buildings and semi-detached dwellings.

FLORA AND FAUNA

The site is located in a medium density residential area and is surrounded by dwellings. The proposal is unlikely to affect any critical habitat or threatened species, or cause any detrimental environmental effects.

SEWERAGE

The site is connected to the existing sewerage network.

SOCIAL AND ECONOMIC

The proposal has the potential to cause significant negative social and economic effects if flooding results in the loss of property and/or life, but it is considered that any risk associated with the proposal is minor, due to the small increase in residential density. The rezoning may cause a minor positive social and economic effect by providing additional housing in a serviced location close to amenities.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority : **Office of Environment and Heritage**
Consultation - 56(2)(d) : **NSW Rural Fire Service**
Transport for NSW - Roads and Maritime Services
State Emergency Service
Other

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

No additional studies are required.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Evaluation Criteria for Delegation - 18 James Street, South Windsor.pdf	Proposal	No

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Planning Proposal - 18 James Street, South Windsor.pdf	Proposal	Yes
Mapping for 18 James Street, South Windsor.pdf	Map	Yes
Council Report and Adoption - 18 James Street, South Windsor.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.3 Mining, Petroleum Production and Extractive Industries**
 3.1 Residential Zones
 3.4 Integrating Land Use and Transport
 3.5 Development Near Licensed Aerodromes
 4.1 Acid Sulfate Soils
 5.1 Implementation of Regional Strategies
 7.1 Implementation of A Plan for Growing Sydney

Additional Information : **SECTION 117 DIRECTIONS**

It is considered that the proposal's inconsistencies with Section 117 Directions: 4.3 Flood Prone Land and 7.1 A Plan for Growing Sydney can be approved as being of minor significance, subject to the proposed rezoning being changed to R2 Low Density Residential.

Should the planning proposal proceed, it is recommended the delegate agree that these inconsistencies with Directions 4.3 and 7.1 are of minor significance, on receipt of an amended planning proposal.

DELEGATION OF PLAN MAKING FUNCTIONS

Council has indicated that it intends to exercise the Greater Sydney Commission's plan making function for this planning proposal. It is recommended that the Commission's delegate agree to delegation to Council.

RECOMMENDATION

It is recommended that the planning proposal proceed subject to the following conditions.

1. Amendment of the planning proposal to rezone the site to R2 Low Density Residential rather than R3 Medium Density Residential.
2. To comply with the requirements of the Section 117 Directions, the following consultation should occur prior to public exhibition:
 - (a) Deputy Secretary of the Department of Industry – Resources and Energy for Section 117 Direction 1.3 Mining, Petroleum Production and Extractive Industries;
 - (b) Commissioner of the NSW Rural Fire Service for Section 117 Direction 4.4 Planning for Bushfire Protection.
3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013).
4. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:
 - Hawkesbury-Nepean Flood Management Taskforce (via Infrastructure NSW)

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- Office of Environment and Heritage
- Roads and Maritime Services
- State Emergency Services

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

6. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Supporting Reasons :

The proposal is supported as it will result in a very minor increase in residential densities being one additional primary dwelling. The site is surrounded by residential development and it is located centrally in the current urban area of Windsor (ie not located on the town fringe).

Signature:



Printed Name:

C. VAN LAEREN

Date:

16/08/16